IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR
ORDER

Seda & Ors. vs. State of Rajasthan & Ors.
(S.B.Civil Writ Petition No.8081/07)
Dated:- 20.12.2007.

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. Varun Goyal , for the petitioner.

BY THE COURT:-

This writ petition is directed against order dated 11.11.07 passed by the learned Board of Revenue in appeal No. ceiling / 6987/2007/Bikaner, whereby an application preferred by the applicants Mahendra Singh & ors. , respondents no. 3 to 5 herein, for impleading them as parties respondents in the appeal, has been allowed.

The brief facts of the case are that the petitioners herein preferred an appeal against the order dated 21.3.75 passed by the Sub Divisional Officer, Bikaner , whereby 297.1 bighas land belonging to the petitioners' husband /father Shri Peeru Khan was acquired by the State under the provisions of Rajasthan (Imposition of Ceiling on Agriculture Holdings) Act, 1973(in short “the Act of 1973” hereinafter). The validity of said order has been challenged by the petitioners before the learned Board of Revenue by way of appeal referred supra.

An application was preferred by the respondent nos. 3 to 5

for impleading them as party respondents in the appeal on the ground that after acquiring the land as aforesaid vide order dated 21.3.75, the land stands converted in Chak and thereafter, a notification for allotment of the said land was issued by the State Government and in pursuance thereof, the land stands allotted in the name of Shri Mahendra Singh s/o Surja Ram , Devi Lal s/o Hanuman and Shopat Ram s/o Hanuman. It is further stated that they have already deposited the allotment amount in the government treasury and allotment letter have also been issued in their favour.

After due consideration, the learned Board arrived at the finding that the applicants are necessary party , accordingly, the application preferred has been allowed by the learned Board as aforesaid. Hence, this petition.

It is contended by the learned counsel that in an appeal preferred against the order of Sub Divisional Officer, Bikaner acquiring the land under the provisions of the Act of 1973, the lis is between the land holder and the State Government, a subsequent transferee cannot be permitted to inter meddle in the matter. In this regard , the learned counsel has relied upon a decision of this Court in the matter of Kesa vs. State of Rajasthan,(1987 RLW,1).

It is to be noticed that after determination of the ceiling area, the excess land belonging to late Shri Peeru Khan was

acquired vide order dated 21.3.75 passed by the Sub Divisional Officer, Bikaner. The appeal against the said order appears to have been filed before the learned Board of Revenue in the year 2007. No details of the subsequent events during the intervening period has been set out in the writ petition except that after acquiring the land, the same was converted into Chaks and the same stands allotted to the respondent nos. 3 to 5 herein.

It is pertinent to note that as per the provisions of Section 21 of the Act of 1973, the surplus land vested in the State Government in terms of Section 16 may be allotted on priority basis amongst the landless laborers particularly, to the members of the Scheduled Castes and Scheduled Tribes by such authority and in such manner to such extent and subject to such terms and conditions as may be prescribed. In exercise of the power conferred by Section 38 of the Act of 1973, the State Government has framed the Rajasthan (Imposition of Ceiling on Agriculture Holdings), Rules, 1973 which inter alia deals with the allotment of surplus land vested in the State.

In this view of the matter, if after acquiring the land as aforesaid, the same stands allotted to the landless person in conformity with the provisions of relevant statute then, obviously, a right is vested in them to hold the land and they cannot be deprived of the same without authority of law. Therefore, at this stage, if the petitioners after a lapse of more

than 30 years have challenged the validity of the order dated 21.3.1975 acquiring the land then,the subsequent allottees cannot be denied an opportunity of hearing inasmuch as their rights are likely to be affected adversely by the decision of the appeal.

The decision of this Court in Kesa's (supra) relied upon by the learned counsel for the petitioners has no bearing to the facts and circumstances of the present case. The said case relates to the transfer effected by the land holder pending fixation of the ceiling area. After due consideration of the provisions of Chapter III of the Rajasthan Tenanct Act, 1955(in short "the Act of 1955" hereinafter) and the Rules made thereunder, in the said case, this Court opined that such subsequent transferee are not entitled for opportun9ity of hearing int he proceeding under Chapter III of the Act of 1955.

In the instant case, the respondents nos. 3 to 5 are the persons, who have been allotted the land by the State Government, after acquiring the same vide order dated 21.3.75. Thus, opportunity of hearing cannot be denied to them.

I do not find any infirmity or illegality in the order passed by the learned Board of Revenue.

Accordingly, the writ petition is hereby dismissed. No order as to costs.

(SANGEET LODHA),J.